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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,974	08/10/2006	Shinichirou Omatsu	294866US3PCT	4629
22850	7590	09/14/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER FRANCIS, FAYE	
			ART UNIT	PAPER NUMBER
			3725	
			NOTIFICATION DATE	DELIVERY MODE
			09/14/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No.	Applicant(s)	
	10/588,974	OMATSU ET AL.	
	Examiner	Art Unit	
	Faye Francis	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-22 and 24-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the non zero angle in claim 13 and the right angle in claim 24 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: proper antecedent basis should be provided in the specification for the teaching that the axis of the cylindrical member is disposed at a non-zero angle relative to a longitudinal axis of the venturi nozzle, as now recited in claim 13. Additionally, proper antecedent basis should be provided in the specification for claims 24 and 25. No new matter should be entered into the application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13 and 24-25 are finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to sufficiently describe the invention claimed in claim 1 so as to enable one of ordinary skill in the art to make the invention claimed without undue experimentation. It is not clear from the specification how the axis of the cylindrical member is disposed at a non-zero angle/right angle relative to a longitudinal axis of the venturi nozzle.

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4. Claims 13 and 24-25 are finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, i.e., New Matter.

The specification as originally filed does not provide support for the teaching of "an axis of the cylindrical member is disposed at a non-zero angle relative to a longitudinal axis of the venturi nozzle" as now recited in claim 13. Note also claims 24-25 in similar regard.

The following rejections have been made under the presumption that the new matter is not in the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 13-14,16-22 and 24-25 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Ohnishi et al. (5,934,575), hereinafter Ohnishi in view of the applicant's admitted Prior Art in page 1 of the specification, hereinafter Prior Art.

Ohnishi discloses a process for preparing a toner comprising: pulverizing a resin composition with a jet type pulverizer comprising a nozzle and an impact member arranged so as to face the nozzle (Fig. 1), wherein the toner is prepared by melt-kneading a mixture containing a binder resin and a colorant or a magnetic powder, cooling the resultant kneaded product. The pulverization of the cooled product usually comprises crushing (or median pulverization) the cooled product by means of a mechanical impact pulverizer and subsequently finely pulverizing the crushed product by means of a pneumatic impact pulverizer making use of air-jet streams. Additionally, Ohnishi discloses the binder resin may include polystyrene; homopolymers of styrene substitution products, such as a styrene-acrylate copolymer, epoxy resins and xylene resins. In particular, styrene copolymers, polyester resins and epoxy resins are preferred resins. Also, for the purpose of improving the properties of toner, it is preferable to mix an external additive such as silica in toner particles.

Ohnishi may not disclose the impact member is a form of a part of a true circle or an oval.

Prior Art discloses that it is well known to provide a jet type pulverizer with an impact member which is a form of a part of a true circle. Therefore, it would have been

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obvious to modify the impact member in the device of Ohnishi to have a circular shape to improve the quality of the end product.

Any remaining limitations not disclosed in the reference would then have been obvious design choice, as they solve no stated problem and of no patentable merit.

8. Claim 15 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Ohnishi in view of Prior Art as applied to claims 13-14 and 16-22 above and further in view of JP 200-140675, hereinafter JP'675.

Modified device of Ohnishi has most of the elements of this claim but for an inner side of the throat part forms a smooth, continuous arc starting from the inlet to the diffuser part.

JP'675 is cited to show desirability, in the relevant art, to provide the inner side of the throat part so that it forms a smooth, continuous arc starting from the inlet to the diffuser part (Fig. 3) in order to effectively ground the material. It would have been to further modify the throat part in the modified device of Ohnishi to have a smooth, continuous arc as taught by JP'675 in order to effectively ground the material.

Response to Arguments

9. Applicant's arguments filed 7/17/09 have been fully considered but they are not persuasive.

Applicant's argument with respect to the indefinite phrase on page 5 has been considered but is moot since rejection no longer relied on.

Applicant's argument on top of page 7 is not at all understood. Applicant refers to "gravity" as being horizontal. Additionally, in Figs. 5a and 5b although the cylinder has

been tilted to the side, the curved impact side still faces toward the inlet as shown by the errors (zero angle).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Faye Francis/
Primary Examiner
Art Unit 3725

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